

REMARKS/ARGUMENTS

In response to Restriction Requirement mailed May 8, 2006, Applicants elect with traverse Group 1, claims 1-23. The elected claims are drawn to a method of identifying a compound that modulates cell cycle arrest by contacting a cell that comprises a target polypeptide and determining a physical, chemical or phenotypic effect of the compound on the cell. Applicants make the following species elections: polypeptides related to SEQ ID NO:14; (ii)(a) nuclease activity; (ii)(b) fluorescent marker level; (ii)(b)(II) cell tracker dye; (iii) transformed cell line; (iii)(e) A549; and (iv) a small organic molecule. Applicants also traverse the restriction of Groups 1, 2 and 3.

The foregoing election is made with traverse. Applicants request that Groups 2 and 3, directed to *e.g.*, methods of modulating cell cycle arrest using a compound that modulates the cell cycle or a target protein for modulation of the cell cycle; and Group 1 directed to a method of identifying a compound that modulates cell cycle arrest by contacting a cell that comprises a target polypeptide with the compound, as the required compositions of Group 1 are also found in Groups 2 and 3.

Applicants also assert that, at the very least, claim 1 is a genus claim linking methods of identifying a compound that modulates cell cycle arrest by contacting a cell that comprises a target polypeptide with the compound to methods of using the identified compounds or target proteins. As such, upon allowance of a linking genus claim, the restriction requirement should be withdrawn with respect to the species claims. MPEP 809.03. Applicants further note that when the requirement for restriction is predicated upon the non-allowability of a generic linking claim, Applicant is entitled to retain in the case claims to the non-elected invention. If the generic linking claim is allowed, the Examiner must then examine non-elected claims to species falling within the genus. MPEP 809.04.

Finally, restriction of an application is discretionary. A restriction requirement is made to avoid placing an undue examination burden on the Examiner and the Office. Where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. MPEP

Appl. No. 10/620,052
Amdt. dated June 7, 2006
Reply to Office Action of May 8, 2006

PATENT

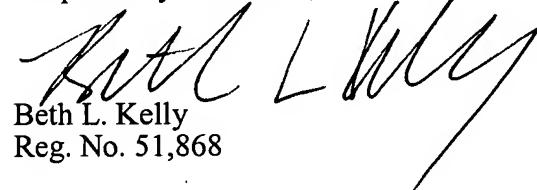
803.01. Applicants respectfully submit that examining the claims of Groups 1, 2 and 3 together would not place an undue burden on the Examiner. Applicants therefore respectfully request that the restriction requirement with respect to Groups 1, 2 and 3 be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


Beth L. Kelly
Reg. No. 51,868

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachments
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